

CHAPTER 5. ENVIRONMENTAL IMPACT STATEMENTS AND RECORDS OF DECISION

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500. INTRODUCTION.

a. This chapter summarizes and supplements CEQ requirements for Environmental Impact Statements (EISs) and Records of Decision (RODs). EISs and RODs are summarized as follows:

(1) An EIS is a clear, concise, and detailed document that provides the agency decisionmakers and the public with a full and fair discussion of significant environmental impacts of the proposed action (40 CFR 1502.1) and implements the requirement in NEPA section 102(2)(C) for a detailed written statement. Using an interdisciplinary approach (40 CFR 1501.2(a)), an EIS describes the purpose and need of the proposed action (40 CFR 1502.13), the affected environment (40 CFR 1502.15), and, in a comparative form, the environmental effects of the alternatives, including the proposed action, the no action alternative, and other reasonable alternatives (including those not within the agency's jurisdiction (40 CFR 1502.14(c)) and those that would avoid or minimize adverse impacts (40 CFR 1502.13 and 1502.14)). The discussion must be in adequate detail so that the environmental effects can be compared to economic and technical analyses (40 CFR 1501.2(b)). An EIS discusses means to mitigate adverse environmental impacts if not covered in the discussion of alternatives (40 CFR 1502.14(f)) and identifies unavoidable impacts (40 CFR 1502.16). For each alternative and mitigation measure, an EIS also discusses the energy and natural resources requirements, urban quality, historic and cultural resources, and the design of the built environment, and the potential for reuse and conservation of these resources (40 CFR 1502.16(e) through (g)). An EIS identifies possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies, and controls for the area concerned (40 CFR 1502.17(c)), and the extent to which the agency would reconcile its proposed action with the plan or law (40 CFR 1506.2(d)). If reasonable alternatives are eliminated from detailed study, the EIS briefly discusses the reasons why these alternatives were eliminated (40 CFR 1502.14(a)). The EIS identifies the agency-preferred alternative or alternatives in the draft EIS if a preferred alternative exists and in the final EIS unless prohibited by law (40 CFR 1502.14(e)). An EIS identifies methodologies and sources used (40 CFR 1502.24), identifies where information is incomplete or unavailable (40 CFR 1502.22), lists the preparers (40 CFR 1502.17), lists the agencies, organizations, and persons to whom copies of the EIS are sent (40 CFR 1502.10(i)), and summarizes the major conclusions, areas of controversy (including issues raised by agencies and the public), and issues to be resolved (40 CFR 1502.12)). The final EIS also includes the agency's response to comments (40 CFR 1502.9(b) and 1503).

(2) A ROD (40 CFR 1505.2) is concise public record of decision, which may be integrated into any other record prepared by the agency. The ROD states what the decision is; identifies all alternatives considered in reaching the agency's decision, specifying which were environmentally preferable. The ROD discusses all other relevant factors considered, including any essential considerations of national policy, economic and technical considerations, and the agency's statutory mission. The ROD states whether all practicable means to avoid or minimize environmental harm from the selected alternative have been adopted, and if not, why not. Where applicable, the ROD may include a monitoring and enforcement program for mitigation. Grants, permits, or other approvals and decisions to fund of agency actions on implementation of the selected mitigation include conditions requiring implementation of the mitigation measures that were adopted by the agency in making its decision (40 CFR 1505.3(a) through (b)).

b. The depth of analysis and documentation of impacts will be in direct proportion to the potential significance of the impacts. EISs should give greater emphasis to significant impacts and less emphasis to insignificant impacts. A significant impact is identified generally through the scoping process, through analysis of the direct, indirect, and cumulative effects of the proposed action, and in comparison with the threshold of significance for each impact category. As in an EA, the discussion in an EIS of insignificant

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impacts is generally limited to an explanation of why further analysis of these impacts is not warranted. See 40 CFR 1500.4(g) (Reducing paperwork), 1501.1(d) (Purpose), and 1501.7 (Scoping).

c. An EIS is required not only when the impact of the proposed action itself is significant, but also when the cumulative impact of the proposed action and any connected agency actions or other past, present, and reasonably foreseeable future actions, whether Federal or non-Federal, is significant (see 40 CFR 1508.7, 1508.8, 1508.25, and 1508.27(b)(7) and CEQ guidance for Considering Cumulative Effects Under the National Environmental Policy Act, January 1997). A series of actions, when assessed on an individual basis, may each have a limited environmental impact. However, the same series of actions may have a significant cumulative impact when assessed together and with other Federal or non-Federal actions that are ongoing or are reasonably foreseeable (40 CFR 1508.7 and 1508.27(b)(7)).

(1) Connected action should be considered in the same EIS. Connected actions are those actions that automatically trigger other actions which may require environmental impact statements, cannot or will not proceed unless other actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification (40 CFR 1508.25(a)(1)). Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts (40 CFR 1508.27(b)(7)). Proposed actions or parts of proposed actions which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement (40 CFR 1508.24(a)).

(2) Cumulative actions should also be discussed in the same EIS. Cumulative actions and those actions which when viewed with other past, present, and reasonably foreseeable future actions, whether Federal or non-Federal, have cumulatively significant impacts (40 CFR 1508.25(a)(2)).

(3) Similar actions, such as those with common timing or geography, may be considered in a broad EIS, sometimes called a “programmatic” EIS, when the best way to assess their combined impacts or reasonable alternatives to such actions is in a single impact statement (40 CFR 1502.4(b) through (c) and 1508.25(a)(3)).

(4) CEQ regulations permit “tiering” from broad EISs to subsequent narrower or site-specific EISs or EAs or from an EIS on a specific action at an early stage to a supplement or subsequent EIS or EA at a later stage (40 CFR 1502.4(c)(3) and 1508.28). See paragraph 513.

d. In cases of doubt as to whether an EIS is necessary for a particular action, the responsible FAA official should consult with the AGC, Regional Counsel, or AEE. Airports personnel should contact APP-600.

501. ACTIONS REQUIRING ENVIRONMENTAL IMPACT STATEMENTS (EIS). An EIS shall be prepared for major Federal actions significantly affecting the quality of the human environment. The term “major” reinforces but does not have a meaning independent of “significantly” (40 CFR 1508.18). Significance is defined in terms of context and intensity (40 CFR 1508.27). Paragraphs 400 and 402 list actions normally requiring an EA.

a. If the analysis in the EA of environmental impact categories discussed in appendix 1 indicates that impacts will be significant, then the responsible FAA official would prepare an EIS and the EA may be used in the scoping process described below; however, if the responsible FAA official has decided to prepare an EIS, an EA need not be prepared.

b. The addition of mitigation to reduce impacts below significance does not necessarily avoid the requirement to prepare an EIS. However, if mitigation is integrated into the design of the proposed action, or if, through scoping or the EA process, the proposed action is redefined to include mitigation, then the responsible FAA official may rely on the mitigation measures in determining that the overall effects would not be significant and prepare an EA/FONSI. In that event, the responsible FAA official must circulate the EA/FONSI for public and agency comment for 30 days (CEQ’s 40 Most Asked Questions Concerning

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CEQ's National Environmental Policy Act Regulations (40 CFR 1500-1508), number 40, 46 FR 18026, March 23, 1981).

c. After an EA has been prepared an EIS shall be prepared if the FAA action:

(1) has a significant adverse effect on cultural resources pursuant to the National Historic Preservation Act of 1966, as amended.

(2) results in significant use on properties protected under section 4(f) of the Department of Transportation Act.

(3) has a significant impact on natural, ecological (e.g., invasive species), or scenic resources of Federal, Tribal, State, or local significance (including, for example, Federally listed or proposed endangered, threatened, or candidate species or designated or proposed critical habitat under section 7 of the Endangered Species Act, resources protected by the Fish and Wildlife Coordination Act, wetlands under section 404 of the Clean Water Act, section 10 of the Rivers and Harbors Act, and E.O. 11988, floodplains under E.O. 11990, coastal resources under the Coastal Zone Management Act and Coastal Barriers Act, prime, unique, State or locally important farmlands under the Federal Farmlands Protection Act, energy supply and natural resources, and wild and scenic rivers, study or eligible river segments under the Wild and Scenic Rivers Act) and solid waste management.

(4) causes substantial division or disruption of an established community, or disrupt orderly, planned development, or is likely to be not reasonably consistent with plans or goals that have been adopted by the community in which the project is located.

(5) causes a significant increase in congestion from surface transportation (by causing decrease in Level of Service below acceptable level determined by appropriate transportation agency, such as a highway agency).

(6) has a significant impact on noise levels of noise-sensitive areas.

(7) has a significant impact on air quality or violate local, State, Tribal, or Federal air quality standards under the Clean Air Act Amendments of 1990.

(8) has a significant impact on water quality, sole source aquifers, contaminate a public water supply system, or violate State or Tribal water quality standards established under the Clean Water Act and the Safe Drinking Water Act.

(9) is inconsistent with any Federal, State, Tribal, or local law relating to the environmental aspects of the proposed action.

(10) directly or indirectly creates a significant impact on the human environment, including, but not limited to, actions likely to cause a significant lighting impact on residential areas or commercial use of business properties, likely to cause a significant impact on the visual nature of surrounding land uses (see sections 11 and 12, appendix 1 for additional information), is contaminated with hazardous materials based on Phase I or Phase II Environmental Due Diligence Audit (EDDAs), or causes such contamination (see section 10, appendix 1 for additional references and discussion).

502. IMPACT CATEGORIES. The responsible FAA official should review appendix 1 to identify the level of analysis needed in the EIS for each applicable environmental impact category. The responsible FAA official should include in the EIS, under appropriate impact categories, all applicable permit or license requirements. The EIS also will report on the status of any special consultation required, such as consultation under the Endangered Species Act, the National Historic Preservation Act, the Fish and Wildlife Coordination Act, Archeological Resources Protection Act, or American Indian Religious Freedom

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Act. These reviews should occur concurrently. The level of analysis for categories not significantly impacted should be similar to the level of analysis in an EA (see paragraph 404c)). These impacts will be discussed in as much detail as is necessary to support the comparisons of alternatives and agency decisionmaking. Many of the impact categories listed in appendix 1 are interrelated, and, therefore, the responsible FAA official should first review the impact category of concern and then the remaining related categories for guidance.

503. ENVIRONMENTAL IMPACT STATEMENT PROCESS. When the determination has been made that the action does have potential significant impacts, the preparation of the EIS will begin. Figure 5-1, Environmental Impact Statement Process, presents an overview of the EIS process.

Figure 5-1. Environmental Impact Statement Process

Step 1	Responsible FAA official or applicant defines proposed action.
Step 2	Responsible FAA official or applicant collects background data and analyzes the information.
Step 3	Responsible FAA official determines need for EIS (anticipated significant impact).
Step 4	Responsible FAA official prepares and publishes Notice of Intent (NOI) in <u>Federal Register</u> and local press.
Step 5	Responsible FAA official initiates EIS scoping activities and determines issues and alternatives to be addressed.
Step 6	Responsible FAA official prepares draft EIS, distributes it to other agencies and public, and files copy with EPA.
Step 7	Responsible FAA official receives and evaluates comments (90-day period). Comment periods may be extended by agency.
Step 8	Responsible FAA official prepares final EIS, distributes it to other agencies and public, and files copy with EPA.
Step 9	30-day waiting period unless the final EIS is filed within 90 days after a DEIS is filed with the EPA, in which case the 30-day and 90-day periods may run concurrently but must not be less than 45 days, subject to a 30-day request for extension by EPA. Comment periods may be extended by agency.
Step 10	Approving FAA official issues ROD and proceeds with action, mitigation, and monitoring.

504. NOTICE OF INTENT. Once the decision is made to proceed with an EIS, the responsible FAA official publishes a Notice of Intent (NOI) in the Federal Register. The NOI is an announcement that an EIS will be prepared. Figure 5-2, Notice of Intent and Notice of Availability Overview, shows that a NOI will include an overview of the proposed action; the alternatives being considered (including the no action); and the name and address of a person within the agency who can answer questions about the proposed action and the EIS (see 40 CFR 1508.22). If a scoping meeting is being planned (see paragraph 505 regarding scoping) and sufficient information is available at the time, the NOI should also announce the meeting, including the time and place of the meeting, and any other appropriate information, such as the availability of a scoping document. Otherwise, the scoping meeting may be announced separately. If the responsible FAA official is using the NOI to satisfy public notice and comment requirements of other environmental laws, regulations, or executive orders in addition to NEPA, the NOI should include a statement to that effect with a reference to the specific law, regulation, or executive order. The responsible FAA official should consider also publishing the NOI, notices of scoping meetings, and other information in other formats pursuant to Order DOT 5610.1C, paragraph 14a and CEQ regulations section 1506.6.

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a. The responsible FAA official sends the NOI, the original and three copies, to the docket clerk in the Office of the Chief Counsel (AGC-200). All NOIs initiated in the regions should be reviewed by the Regional Counsel before being forwarded to AGC-200. The applicable division manager or designee may sign the NOI for the Federal Register.

b. After publishing the NOI, the responsible FAA official selects the environmental review team and develops the EIS outline, schedule, and management framework.

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Figure 5-2. Notice of Intent and Notice of Availability Overview

Purpose	Content	Public Participation
<ul style="list-style-type: none"> • Notice of Intent (NOI) announces to the public that the EIS process has begun for a proposed FAA action. • If appropriate, the NOI announces the availability of a scoping document (document is optional). • The NOI announces the scoping meeting, if one is planned and the details of time and place are known; otherwise, if and when a scoping meeting is scheduled, a separate notice is published at least 30 days in advance of the meeting. 	<p>Describes:</p> <ul style="list-style-type: none"> • Proposed action and possible alternatives. • Proposed scoping process including whether, when, and where any scoping meeting will be conducted. • States an FAA point of contact for public inquiries. 	<ul style="list-style-type: none"> • The FAA publishes the NOI in <u>Federal Register</u> and local press. • An NOI or other notice of a scoping meeting must be published at least 30 days prior to the meeting.
<ul style="list-style-type: none"> • Notice of Availability (NOA) announces the availability of a DEIS or an FEIS. 	<ul style="list-style-type: none"> • Announces the availability of the DEIS and FEIS. • Provides information about where to review copies and send comments. 	<ul style="list-style-type: none"> • EPA drafts and publishes the NOA in <u>Federal Register</u>. • FAA publishes NOA in local press.

505. SCOPING.

a. Scoping is an early and open process for determining the scope of issues to be addressed and identifying the significant issues related to a proposed action (40 CFR 1501.7). It is an important and required, part of the EIS process. The purpose of scoping is to identify significant environmental issues to be analyzed in greater depth, de-emphasize issues that are significant or which have been covered by prior environmental review, and set the temporal and geographic boundaries of the EIS. Scoping also allows the responsible FAA official to identify available technical information and additional reasonable alternatives. More importantly, information obtained from scoping can be used to insure that planning and decisions reflect environmental values and that delays and conflicts are reduced later in the process. A scoping meeting often will be appropriate when the impacts of a particular action are confined to specific sites. There are no requirements for a scoping meeting or for a specific number of meetings. Depending on the nature and complexity of the action, some or all of the information needed during the scoping process may be obtained by letter, telephone, or other means (see Appendix 1, Analysis of Environmental Impact Areas, and Appendix 5, Council on Environmental Quality Scoping Guidance. If an EA has been prepared, the responsible FAA official may use it as the vehicle for scoping. Alternatively, the responsible FAA official may prepare a scoping document. A scoping document is extremely useful if the scoping is done by mail or telephone, or the proposed action's location or locations are so remote, scattered, or widespread that affected agencies and other interested persons are unable to visit the site or sites.

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b. The responsible FAA official must take the lead in the scoping process, inviting the participation of affected Federal, State, and local agencies, any affected Indian Tribe, the applicant of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), determining the issues to be analyzed in depth, identifying other environmental review and consultation requirements, and assigning responsibilities among lead and cooperating agencies for inputs to the EIS. If appropriate, a scoping meeting(s) will be held. Public notice of 30 days should be required for a public meeting(s) or hearing(s). At the scoping meeting, the FAA provides additional background on the action and then solicits input from those interested and affected parties attending to:

- (1) Determine the scope of analysis required within the EIS;
- (2) Identify and eliminate insignificant issues and those covered in previous environmental reviews;
- (3) Identify reasonable alternatives not previously addressed; and
- (4) Indicate any other EAs or EISs that have been conducted or are planned and which are related to but not part of the action under consideration.

c. Local units of governments, and pertinent Federal, Tribal, and State agencies should be consulted early in the process of preparing an EIS. Where access, intermodal transfer, or other ground transportation issues are involved, consultation with the appropriate metropolitan planning organization or State Department of Transportation and compliance with State Implementation Plans under the Clean Air Act (CAA) is important. Comments on the impacts of the proposed action will be considered, as appropriate, in determining whether the proposed action requires an EIS and in preparing the EIS. Consultation with appropriate agencies also is initiated at this point.

506. EIS FORMAT. The FAA's standard EIS format, which follows the format prescribed in CEQ regulations (40 CFR 1502.10), is outlined below. An overview is presented in Figure 5-3, Environmental Impact Statement Overview.

a. Cover Page. This single page will include:

- (1) A list of the responsible agencies (identifying the lead agency);
- (2) The title of the proposed action (together with the State(s) and county(ies) where the action is located);
- (3) The name, address, and telephone number of the responsible FAA official;
- (4) The designation of the statement as draft, final, or supplement;
- (5) A one paragraph abstract of the EIS with a heading as follows: DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION; and
- (6) For DEISs, a statement that this EIS is submitted for review pursuant to the following public law requirements and list those that are applicable, such as section 102(2)(C) of the National Environmental Policy Act of 1969, section 4(f) of the Department of Transportation Act of 1966.

b. Executive Summary. An executive summary will be included to adequately and accurately summarize the EIS. The summary describes the proposed action, stresses the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). It also discusses major environmental considerations and how these have been addressed, summarizes the analysis of alternatives, and identifies any environmentally preferred, agency

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preferred and sponsor preferred alternatives. It discusses mitigation measures, including planning and design to avoid or minimize impacts. It identifies interested agencies, lists permits, licenses, and other approvals that must be obtained, and reflects complied with other applicable environmental laws, regulations, and executive orders.

c. Table of Contents. The table of contents lists the chapters, figures, maps, tables, and exhibits presented throughout the EIS. It will also list the appendixes, if any, and the list of acronyms, glossary, references, an index, and an errata page.

d. Purpose and Need. This section defines the proposed action and briefly specifies the underlying purpose and need to which the agency is responding in proposing the alternatives, including the proposed action. It presents the problem being addressed by the proposed action, how the alternatives would resolve the problem, and the benefits of the proposed action. It distinguishes between the need for the proposed action and the desires or preferences of the agency or applicant, and essentially provides the parameters for defining a reasonable range of alternatives to be considered.

e. Alternatives, Including the Proposed Action. This section is the substantive part of the EIS (see 40 CFR 1502.14; see also 40 CFR 1502.10(e) and paragraph 405d for more information on alternatives). It presents a comparative analysis of the no action alternative, the proposed action, and other reasonable alternatives to fulfill the purpose and need for the action. It identifies the environmentally preferred alternatives in accordance with CEQ regulations. Alternatives not within the jurisdiction of the lead agency, but within the jurisdiction of the Federal government, should be considered. To provide a clear basis of choice among the alternatives, graphic or tabular presentation of the comparative analysis is recommended. This section also presents a brief discussion of alternatives that were not considered and the rationale for not analyzing them further detail. The premise for this rationale should be framed in terms of alternatives that are not reasonable due to their inadequacy in meeting the purpose and need for the proposed action. Environmentally preferred alternatives are identified based on the information and analysis presented in the affected environment and environmental consequences sections of the EIS. The FEIS must identify the preferred alternative if it is other than an environmentally preferred alternative. Other criteria may be applied to select the preferred alternative.

f. Affected Environment. This section describes the existing environmental conditions of the potentially affected geographic area or areas. The discussion of the affected environment will be no longer than is necessary to understand the effects of the alternatives; data and analyses should be presented in detail commensurate with the importance of the impact. This section describes other related activities (past, present or reasonably foreseeable future actions), their interrelationships, and cumulative impacts. It may include such items as action by the community or citizen groups pertinent to the proposed action, or any other unique factors associated with the action. (See paragraph 405e for other factors that may be included in the affected environment discussion.)

g. Environmental Consequences.

(1) This section forms the scientific and analytical basis for comparing the proposed action and alternatives. The discussion of environmental consequences will include the environmental impacts of the alternatives including the proposed action; any adverse environmental effects which cannot be avoided should the proposed action be implemented; the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented. This section should not duplicate discussions in the alternative section. It shall include considerations of direct and indirect effects and their significance and possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of an Indian reservation, Tribal) land use plans, policies and controls for the area concerned (see CEQ's "40 Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (40 CFR 1500-1508)," number 23, 46 FR 18026, March 23, 1981 and paragraph 405f).

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(2) Specific environmental impact categories listed in appendix 1 shall be discussed to the level of detail necessary to support the comparisons of alternatives. Impacts shall be analyzed for each alternative, including the proposed action which is treated in detail in this section of the EIS. The section shall include, under appropriate impact categories, all applicable permit or license requirements and shall indicate any known problems with obtaining them. This section shall also provide the status of any interagency or intergovernmental consultation required, for example, under the National Historic Preservation Act, the Endangered Species Act, the Coastal Zone Management Act, the American Indian Religious Freedom Act, E.O. 13084, Government-to-Government Consultation with Indian Tribal Governments, the Wild and Scenic Rivers Act, and the Fish and Wildlife Coordination Act.

h. Mitigation.

(1) An EIS describes mitigation measures considered or planned to minimize harm from the proposed action. The following types of mitigation measures will be considered: design and construction actions to avoid or reduce impacts; design measures that reduce impacts; management actions that reduce impacts during operation of the facility; and replacement, restoration, and compensation measures.

(2) An EIS describes alternative mitigation measures and identifies any that the FAA has decided to include as part of the proposed action. Mitigation and other conditions established in the EIS, or during its review of the EIS, and committed as part of the decision will be implemented by the lead agency or other appropriate consenting agency. The FAA ensures implementation of such mitigation measures through special conditions, funding agreements, contract specifications, directives, other review or implementation procedures, and other appropriate follow-up actions in accordance with 40 CFR 1505.3. Monitoring or other follow-up review should also be described. See paragraph 404g for additional information.

i. List of Preparers. This list includes the names, and qualifications (e.g., expertise, experience, professional disciplines) of the FAA that were primarily responsible for preparing the EIS or significant background material, with credit to any contractors who assisted in preparing the EIS or associated environmental studies.

j. List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent. This list is included for reference and to demonstrate that the EIS is being circulated, and thus, that the public review process is being followed.

k. Index. The index reflects the key terms used throughout the EIS for easy reference. The index includes page numbers for each reference.

l. Appendices (if any). This section consists of material that substantiates any analysis that is fundamental to the EIS, but would substantially contribute to the length of the EIS or detract from the document readability, if included in the body of the EIS. This section should contain information about formal and informal consultation conducted, and related agreement documents prepared, pursuant to other applicable environmental laws, regulations, and executive orders.

m. Comments. Comments received on the DEIS are assessed and responded to in the FEIS in any or all of the following ways:

(1) Written into the text of the FEIS.

(2) Stated in an errata sheet attached to the FEIS.

(3) Included or summarized and responded to in an attachment to the FEIS, and if voluminous, may be compiled in a separate supplemental volume for reference.

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n. Footnotes. Footnotes include title, author, date of document, page(s) relied upon, and footnote number used to identify where in the text, figures, and charts of the EIS the source is used.

Figure 5-3. Environmental Impact Statement Overview

Purpose	Scope	Content	Public Participation
<ul style="list-style-type: none">Provides an in-depth review of the environmental impacts for all major FAA actions before a decision is made.Examines alternatives and the potential for mitigating impacts associated with those alternatives.Discloses to the public and the decisionmaker the alternatives, impacts, and mitigations.	Provides a comprehensive review of all impacts of the proposed action and alternatives, including the no action alternative.	<p>Includes the following:</p> <ul style="list-style-type: none">Cover sheetExecutive SummaryTable of ContentsPurpose of and need for actionAlternatives considered, including proposed actionAffected environment (baseline conditions)Environmental consequences of alternativesCoordination—includes list of agencies, organizations and persons to whom copies of the EIS are sentList of preparersIndexAppendicesSummary of public comments on DEIS <p>Exceptions are permitted if the responsible FAA official determines that there is a compelling reason to change the standard format.</p>	<ul style="list-style-type: none">Provides for a 45-day public comment period on the DEIS.If necessary, a public hearing on the DEIS should occur within 30 days of issuance.Provides for a 30-day waiting period on the FEIS prior to issuance of the ROD.

507. TIMING OF ACTIONS. The comment period for a DEIS is 90 days from the date of filing with EP; however, if the FEIS is filed within the 90-day period, the comment period can be reduced to not less than 45 days. Thus, a comment period of at least 45 days for public review is required (see 40 CFR 1506.10(c)). If a public hearing or public meeting is held, the timeframe includes 30 days for review of the DEIS, prior to the public hearing, and 15 days to allow for comments following the public hearing. The number of days is determined from the date that the NOA is available for review by the public (e.g., newspaper, Federal Register). EPA may receive a 30-day extension of prescribed periods upon request to the lead agency, or may upon a showing by the lead agency of compelling reasons of national policy reduce or, after consultation with the lead agency, extend prescribed periods. The lead agency may also grant extensions upon written request by the public.

508. DRAFT EIS. A DEIS is prepared using the format outlined in paragraph 506.

a. Internal Review. The responsible FAA official should plan for internal review of DEISs. For DEISs originating in the regions, the preliminary DEIS or its relevant parts will be reviewed by affected regional program divisions and Regional Counsel before publication, distribution, and filing the DEIS with EPA for public review. For DEISs originating in headquarters, have national interest, or involve 4(f) determinations, the preliminary DEIS will be reviewed by AGC. Internal review is to assure that DEISs are

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technically and legally sufficient. Internal review is intended to assure that the concerns of other FAA offices and any related foreseeable agency actions by other FAA offices are properly discussed in the DEIS. Further, internal review is intended to assure that any commitments that are the responsibility of other FAA offices are coordinated with the appropriate action office so that these commitments will be implemented..

b. Filing with EPA. The responsible FAA official files the DEIS with the EPA (see 40 CFR 1506.9). The EPA will subsequently publish a NOA in the Federal Register, which will begin the 90-day period after which the Federal action can be taken. EPA's Office of Federal Activities (OFA) has the responsibility for the EIS filing process.

a. Send five copies of the DEIS to the EPA's Office of Federal Activities (OFA).

(1) When using the regular United States mail service, send to:

U.S. Environmental Protection Agency
Office of Federal Activities, NEPA Compliance Division
EIS Filing Section, Mail Code 2252-A,
401 M Street, SW,
Washington, D.C. 20460.

(2) When sending the FEISs by special delivery (Federal Express, United Parcel Service, etc.) or hand carrying FEISs to the OFA, the address is:

U.S. Environmental Protection Agency
Office of Federal Activities, NEPA Compliance Division
EIS Filing Section, Ariel Rios Building (South Oval Lobby)
Mail Code 2252-A, Room 7241
1200 Pennsylvania Avenue, NW
Washington, D.C. 20044.

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c. Public Notice. Public notice by the responsible FAA official is planned and executed to assure that press releases, official notices, or other appropriate media announce to the public that a DEIS has been prepared and is being circulated and that comments on the document are being solicited. The announcement contains information on the availability of the DEIS and should be distributed to local media concurrent with distribution for notice in the Federal Register with request for immediate publication and other appropriate media coverage. The following standard language should be used concerning public comments in Federal Register notices announcing the availability of DEISs for public comment and any public hearings (also for any FEISs whose availability FAA announces in the Federal Register):

All persons interested in the proposed action are encouraged to comment. Comments should be as specific as possible and may address the adequacy of the proposed action or the merits of the alternatives and mitigation being considered. In addition, Federal court decisions have established that reviewers of EISs must structure their participation so that it is meaningful and alerts an agency to the reviewer's positions and contentions. Environmental objections that could have been raised may be waived if not raised before the FEIS is issued. This ensures that substantive comments and objections are made available to the FAA in a timely manner so that the FAA can respond to them.

See also paragraph 208 for additional information on public involvement.

d. Distribution and Coordination for Intergovernmental Review.

(1) According to CEQ regulations, comments on the DEIS shall be obtained from or requested of appropriate Federal, State, and local agencies, and Tribal governments (40 CFR 1501.2(d)(2) and 1501.7(a)(1)), and from Tribal governments when the effects may be on a reservation (40 CFR 1502.16(c), 1503.1(a)(2)(ii), 1506.6(b)(3)(ii)). A Federal agency may include State, local, or Tribal governments which have assumed NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974 (40 CFR 1508.12). Summaries of DEISs can be put up on CEQ's home page (<http://ceq.eh.doe.gov/>). All DEISs will be coordinated with the appropriate regional offices of other Federal agencies having jurisdiction by law or special expertise. However, DEISs that are coordinated with any component of the Department of the Interior (DOI), Department of Commerce (DOC), or Department of Energy (DOE) will be coordinated with the Washington, D.C., headquarters of those departments. Coordination with the DOE is necessary only for transportation proposals having major energy-related consequences. See paragraph 210 for additional information on interagency and intergovernmental review of EISs.

(2). Copies of the DEIS will be sent to::

(a) Federal, State, and local agencies, and Tribal governments when the effects may be on a reservation.

(b) Washington, D.C., headquarters of the Department of Commerce (one copy) and Ecology and Conservation Division of the National Oceanographic and Atmospheric Administration (NOAA) (one copy)

(c) Washington, D.C., headquarters of the Department of Energy, if coordination is necessary (see paragraph 508d(1)) (one copy)

(d) Department of the Interior, Office of Environmental Policy and Compliance (12 to 18 copies of the DEIS depending on the proposed action's geographic location and scope)

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(e) EPA headquarters (five copies) and the applicable EPA regional office
(five copies)

(f) P-1 (one copy), AEE (one copy), AGC or designee (one copy), the service director, other appropriate DOT and FAA offices;

(g) proposed action;

State and local agencies and Tribal governments (see paragraph 212 on intergovernmental and interagency coordination and consultation), including cooperating agencies, agencies that commented substantively on the Intergovernmental Review of Federal Programs, the Advisory Council on Historic Preservation for actions using 106 process, affected cities and counties, and others known to have an interest in the action (see paragraph 208 on public involvement). For example, various laws, regulations, and executive orders in addition to NEPA, may also require coordination with American Indian and Alaska Native tribes and Native Hawaiian organizations that are not Federally recognized, and with traditional cultural leaders. Consult with AEE, AGC, and the Office of Civil Rights (ACR) and see appendix 1, especially section 11 on cultural resources, for more information.

f. Copies. Copies should be printed by the responsible FAA official in sufficient quantities to meet anticipated demand for the DEIS. A fee, not to exceed reproduction costs, may be charged for copies requested by the public if the original set of copies is exhausted. The DEIS should be available at local libraries or similar public depositories having extended office hours to facilitate accessibility. Material used in developing or referenced in the DEIS must be available for review at the appropriate FAA office(s) or at a designated location.

g. Comment Period. See paragraph 507.

h. Comments. The responsible FAA official must take into consideration all comments received from the public and respond to the substantive comments in the FEIS, as discussed in paragraph 506m. Any comments on the DEIS from the public, including comments made during public hearings (see paragraph 208), will accompany the FEIS through the normal internal review process. In preparing the FEIS, the DEIS will be revised, as appropriate, to reflect comments received, issues raised through the community involvement and public hearing process, or other considerations. Copies of all substantive comment will be included in the FEIS or as a separate, accompanying appendix. If the number of comments is too voluminous to include, the comments may be summarized. Relevant environmental documents, comments, and responses are part of the agency's public record and will be made available to the public through appropriate regional office procedures.

(1) Comments from EPA on the DEIS are categorized according to the following criteria:

- (a) Lack of Environmental Objections (LO);
- (b) Environmental Concerns (EC);
- (c) Environmental Objections (EO); or
- (d) Environmental Unsatisfactory (EU).

(2) The statement adequacy also is categorized by EPA as:

- (a) Adequate (1);
- (b) Insufficient Information (2); or

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(c) Inadequate (3).

509. REVIEW AND APPROVAL OF FEIS. It is during the EIS process that environmental issues are defined and mitigation determined. Any unresolved environmental issues and efforts to resolve them through further consultation will be identified and discussed in the FEIS. The FEIS will reflect that there has been compliance with the requirements of all applicable environmental laws, regulations, executive orders, and agency orders, such as section 4(f) of the DOT Act. If such compliance is not possible by the time of FEIS preparation, the FEIS will reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements can be met. CEQ regulations, however, strongly encourage early integration of these processes to provide for meaningful public comment and to streamline environmental review and permitting or approval processes.

a. Internal review is coordinated as follows:

(1) FEISs originating in headquarters. The office or service director shall send a copy of the FEIS to AEE and AGC to review for legal sufficiency and concurrence. After the office or service director approves the FEIS, the responsible FAA official will file it with EPA (see paragraphs 509a(6) and 512).

(2) FEISs originating in the fields, and not subject to headquarters' concurrence. The Regional Administrator or Center Director, or designee, shall approve and file the FEIS with EPA, following review for legal sufficiency by the Regional Counsel and concurrence.

(3) FEISs originating in regions or centers, but when headquarters concurrence is requested. The Regional Administrator or Center Director, or designee, shall approve the FEIS and submit it to the appropriate service or office director. Following approval, the FEIS will be filed with EPA (see paragraph 510a(2)).

(4) FEISs originating in regions or centers, but where authority to approve the FEIS is retained in headquarters. The applicable division manager or center shall send the proposed FEIS to the appropriate headquarters' office or service director. The office or service will provide the FEIS to AGC and AEE for review. Following approval, the FEIS will be filed with EPA. Presently, approval for these types of FEISs is being delegated, if comments on the DEIS have been incorporated.

(5) FEISs involving mandatory findings involving section 4(f), wetlands, floodways or floodplains, air quality, historic and archeological resources protected by section 106, and Federally listed endangered and threatened species. These FEISs are subject to legal review for legal sufficiency in headquarters or in the region where the environmental document is to be approved.

(6) For highly controversial FEISs requiring headquarters' review and concurrence. The Office of the Assistant Secretary for Transportation Policy (P-1) and the DOT Office of General Counsel (C-1) will be notified that the FEIS is under review and be provided with a copy of the summary section contained in the FEIS. P-1 and C-1 also will be given at least two weeks notice before approval of the highly controversial FEIS.

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b. FEIS approval.

(1) The following declaration shall be added to the summary:

After careful and thorough consideration of the facts contained herein and following consideration of the views of those Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts described, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1969.

Other required environmental findings and conclusions must be included here, if not included in the body, or at the end of, the EIS.

(2) Signature and date blocks will be provided for the decisionmaker's approval and may also be provided for the concurrences of other appropriate offices.

510. NOTICE OF AVAILABILITY OF FEIS. When the lead agency files the FEIS with the EPA, the EPA prepares and publishes a NOA. The FAA can make a final decision to act no sooner than 30 days after the EPA notice of filing is published in the Federal Register (40 CFR 1506.10). EPA may obtain a 30-day extension. The responsible FAA official may also extend the waiting period or, with the approval of P-1, request EPA to reduce this period for compelling reasons of national policy (40 CFR 1506.10(d)). The primary purpose for this waiting period is to provide for any pre-decision referral process for resolving interagency disagreements (40 CFR 1504.3). The purpose is not for receiving and incorporating public comments. If the responsible FAA official anticipates public comments on findings in the FEIS, the FAA should address these before the FEIS is approved, distributed, and filed. Further, if anyone fails to comment on an issue that reasonably could have been raised earlier (through scoping and DEIS comment period(s)), their comments need not prevail or delay the final decision. At the conclusion of the 30-day waiting period, the decisionmaker issues the final decision in a ROD (see paragraph 514) and may begin implementing the proposed action.

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511. DISTRIBUTION OF APPROVED FEIS. The originating FAA region, center or service simultaneously distributes the approved FEIS as follows:

- a. Send five copies to the EPA Office of Federal Activities (OFA).

(1) When using the regular United States mail service, send to:

U.S. Environmental Protection Agency
Office of Federal Activities, NEPA Compliance Division
EIS Filing Section, Mail Code 2252-A,
401 M Street, SW,
Washington, D.C. 20460.

(2) When sending the FEISs by special delivery (Federal Express, United Parcel Service, etc.) or hand carrying FEISs to the OFA, the address is:

U.S. Environmental Protection Agency
Office of Federal Activities, NEPA Compliance Division
EIS Filing Section, Ariel Rios Building (South Oval Lobby)
Mail Code 2252-A, Room 7241
1200 Pennsylvania Avenue, NW
Washington, D.C. 20044.

b. Five copies to the appropriate regional office of EPA (one copy, if categorized as LO-1 per paragraph 508h of this order).

c. One copy of the FEIS to each of the following: the office director; Regional Administrator; and AEE.

d. One copy of the approved FEIS will be sent to the DOT Office of the Assistant Secretary for Transportation Policy , Environmental Policies Team, P-130.

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e. A copy of the FEIS also will be sent to:

(1) Each Federal, Tribal, State, and local agency and to private organizations that made substantive comments on the DEIS and to individuals who requested a copy of the FEIS or who made substantive comments on the DEIS;

(2) DOI (6 to 9 copies of the FEIS depending on the action's geographic location and scope) at the following address:

Director, Office of Environmental Policy and Compliance
U.S. Department of the Interior
Main Interior Building, MS 2340
1849 C Street, N.W.
Washington, D.C. 20240.

(3) For transportation proposals having major energy-related consequences, one copy will be sent to DOE headquarters.

f. Adequate number of copies (varies by State) to the appropriate State-designated single point of contact (or specific agency contacts when States have not designated a single contact point), unless otherwise designated by the governor.

g. Additional copies will be sent to accessible locations to be made available to the general public, including headquarters and regional offices; and State, metropolitan, and local public libraries to facilitate accessibility.

h. FEISs, comments received, and supporting documents will be made available to the public without charge to the fullest extent practical or at a reduced charge, which is not more than the actual cost of reproducing copies, at appropriate agency office(s) or at a designated location.

512. RECORD OF DECISION (ROD). Following the review periods described in 40 CFR 1506.10 (i.e., 90 days from DEIS Notice of Availability (NOA) issuance and 30 days for FEIS NOA issuance), the agency's decisionmaker may make a decision on the Federal action. The ROD presents the agency's official decision on the action and identifies applicable mitigation and monitoring actions required (see 40 CFR 1505.2). The ROD may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. The ROD shall identify and discuss all factors including any essential considerations of national policies which were balanced by the agency in making its decision and state how those considerations entered into the decision. The ROD shall state whether all practicable means to avoid or minimize environmental harm from the alternatives selected have been adopted, and if not adopted, why they were not adopted. The draft ROD should accompany the proposed FEIS during the internal review prior to approval only when headquarters' concurrence is required. The decisionmaker must obtain concurrence before approving the ROD. After approving the ROD, the decisionmaker may begin implementing the selected action. Figure 5-4, Record of Decision Overview, presents an overview of the components of a ROD.

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Figure 5-4. Record of Decision Overview

Purpose	Scope	Content	Public Participation
Announces the FAA's decision regarding the proposed major action.	<ul style="list-style-type: none">States the FAA's decision and the basis for the decision.Summarizes the FEIS analyses and selected mitigation measures.	<ul style="list-style-type: none">States the FAA's preferred alternative.Identifies all alternatives considered by the FAA.States whether all precautions to avoid or minimize harm to the environment were considered, and if not, explains why environmental precautions would not be taken.Explains, when appropriate, the mitigation implementation responsibilities.Makes appropriate findings required by executive order, regulation, or law (e.g., 4(f), wetlands, etc.).	Provides a notice of the decision to the public.

a. Regional Administrators are responsible for signing RODs where proposed actions cross regional or program lines. The lead regional operating division responsible for preparing and approving the FEIS will make this determination, obtain regional counsel concurrence, and facilitate signature by the appropriate decisionmaker. Subject to program-specific procedures for NEPA compliance, the division manager is responsible for signing RODs that do not cross regional or program lines.

b. Any mitigation measure that was made a condition of the approval of the FEIS must be included in the ROD. RODs can be used to set forth the conditions required for the approval of the action, and to state mitigation measures that will be taken. A monitoring and enforcement program shall be adopted and summarized where applicable for any such mitigation. Proposed changes in or deletions of mitigation measures that were a condition of approval of the FEIS must be reviewed by the same agency offices that reviewed the FEIS and must be approved by the FEIS approving official.

c. Based on comments received on the FEIS, the decisionmaker may choose to take an action that was included within the range of alternatives of an approved FEIS but was neither the environmentally preferred alternative(s) nor the agency's preferred alternative as identified in the FEIS. In these cases, the decisionmaker must circulate the revised draft ROD for coordination and concurrence with the same agency offices that reviewed the FEIS. These offices may concur without comment, may concur on the condition that specific mitigation measures be incorporated in the ROD, may request that a supplement to the FEIS be prepared and circulated, or may non-concur. The decisionmaker cannot approve the Federal action over a non-concurrence.

d. If the decisionmaker selects an alternative that involves other environmental law, regulations, or executive orders, such as those related to section 4(f) land, Federally listed endangered species, wetlands, historic sites, the agency must first complete any required evaluation and consultation, including supplementing the original FEIS and making the appropriate finding, prior to taking the action. Supplements to FEISs will be reviewed and approved in the same manner as the original document, and a new draft ROD should be prepared, circulated, and approved. A copy of the ROD should be forwarded with the FEIS to AEE-1 for their files.

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e. Although the CEQ regulations do not require publication of a notice of availability of the ROD in the Federal Register except for actions of national concern, the ROD must be made available to the public pursuant to 40 CFR 1506.6(b) (see CEQ's "40 Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (40 CFR 1500-1508)," 46 FR 18026, March 23, 1981). The responsible FAA official may publish a notice of a ROD in the Federal Register for actions not of national concern. Additional information on public involvement may be found in paragraph 208, and by contacting AEE (Environment & Energy Team, AEE-200) and AGC (Environmental Law Branch, AGC-620).

513. TIERING AND PROGRAMMATIC EISs. Program offices shall, to the extent practicable, build upon prior, broad EAs or EISs (see paragraph 500d(4)). For example, long-term developmental EISs and broad system, program, or regional EISs may be incorporated by reference in support of project-specific EISs. The purpose of tiering is to eliminate repetition and facilitate analysis of issues at the appropriate level of detail. Programmatic EISs are tailored to particular program needs and, in practice, only need to be used to assist a program in environmental documentation vis-a-vis site- or action-specific documentation (see 40 CFR 1502.20 and 1508.28 and paragraph 409).

514. TIME LIMITS FOR EISs. The time limits established for all FAA EISs, including programmatic EISs, are contained in this paragraph.

a. A DEIS may be assumed valid for a period of three years. If the proposed FEIS is not submitted to the approving official within three years from the date of the DEIS circulation, a written reevaluation of the draft will be prepared by the responsible FAA official to determine whether the consideration of alternatives, impacts, existing environment, and mitigation measures set forth in the DEIS remain applicable, accurate, and valid. If there have been changes in these factors that would be significant in the consideration of the proposal, a supplement to the DEIS or a new DEIS will be prepared and circulated.

b. For approved FEISs, three sets of conditions have been established:

(1) If major steps toward implementation of the proposed action (such as the start of construction, substantial acquisition, or relocation activities) have not commenced within three years from the date of approval of the FEIS, a written reevaluation of the adequacy, accuracy, and validity of the FEIS will be prepared by the responsible FAA official (unless EIS tiering is being used). If there have been significant changes in the proposed action, the affected environment, anticipated impacts, or proposed mitigation measures, a new or supplemental FEIS will be prepared and circulated.

(2) If the proposed action is to be implemented in stages or requires successive Federal approvals, a written reevaluation of the continued adequacy, accuracy, and validity of the FEIS will be made at each major approval point that occurs more than three years after approval of the FEIS and a new or supplemental EIS prepared, if necessary.

(3) If the proposed action has been restrained or enjoined by court order or legislative process after approval of the FEIS, the 3-year period may be extended by the time equal to the duration of the injunction, restraining order, or legislative delay.

515. WRITTEN REEVALUATION.

a. The preparation of a new EIS is not necessary when it can be documented that the:

(1) Proposed action conforms to plans or projects for which a prior EIS has been filed;

(2) Data and analyses contained in the previous EIS are still substantially valid; and

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(3) Pertinent conditions and requirements (all) of the prior approval have, or will be, met in the current action.

b. This evaluation, signed by the responsible FAA official, will either conclude the contents of previously prepared environmental documents remain valid or that significant changes require the preparation of a supplement or new EIS.

c. The written re-evaluation should be reviewed internally according to the provisions of paragraph 509 for review and concurrence of FEISs.

516. REVISED OR SUPPLEMENTAL EISs.

a. The agency prepares supplements to either DEISs or FEISs if the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Significant information is information that paints a dramatically different picture of impacts compared to the description of impacts in the EIS. The agency also may prepare supplements when the purposes of NEPA will be furthered by doing so.

b. The agency prepares, circulates, and files a supplement to a DEIS or FEIS in the same fashion as the original DEIS or FEIS, unless alternative procedures are approved by the CEQ. If, however, there are compelling reasons to shorten time periods, the agency may consult with CEQ (see paragraph 513). Scoping should be considered, but is not required.

c. The preparation of a new EIS is not necessary when the proposed action conforms to plans or projects for which a prior EIS has been filed, the data and analyses contained in the previous EIS are still substantially valid, and that all pertinent conditions and requirements of the prior approval have or will be met in the current action. This evaluation, signed by the responsible FAA official, will either conclude that the contents of previously prepared environmental documents remain valid or that significant changes require the preparation of a supplement or new environmental document. If a supplement changes a ROD, a new ROD should be issued after the supplement has been reviewed for 30 days.

d. The responsible FAA official may also publish periodic fact sheets to inform the public of the status of the EIS or other supplemental environmental information, such as reports, on long-term or complex EISs to provide information that does not require preparation of a supplemental EIS. The responsible FAA official should notify EPA to ensure that the official log is accurate, and to include this information as a separate section within the Notice of Availability (see EPA Filing System for Implementing the CEQ Regulations, 54 FR 9593, March 7, 1989).

517. REFERRALS TO COUNCIL ON ENVIRONMENTAL QUALITY. The CEQ may serve as a mediator in interagency disagreements over proposed Federal actions that might cause unsatisfactory environmental effects. If a commenting agency determines that an action is environmentally unsatisfactory, the matter may be referred to CEQ during the 30-day period after filing the FEIS. When the responsible FAA official receives a notice of intended referral from the commenting agency, the responsible FAA official will provide P-1 (the Office of the Assistant Secretary for Transportation Policy) and AEE with a copy of the notice. (Airports personnel will alert APP-600 if a referral notice is received.) In the event of referral to CEQ by a commenting agency, the responsible FAA official forwards a proposed response to AEE within 10 days of referral. The response must address fully the issues raised in the referral and be supported by evidence. AEE will obtain P-1's concurrence on the proposed response. (APP-600 also will obtain P-1 concurrence for airports' actions). The response then will be sent to CEQ within 20 days of the referral.

518. REVIEW AND ADOPTION OF ENVIRONMENTAL IMPACT STATEMENTS PREPARED BY OTHER AGENCIES. Other Federal, Tribal, State, or local agencies may consult the FAA for

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assistance in analyzing environmental impacts that fall within FAA's functional area of responsibility. The FAA should provide its expertise on proposals affecting aviation and other FAA responsibilities as follows:

- a. Comments will be specific in nature and organized in a manner consistent with the structure of the draft EIS and must identify alternatives or modifications that may enhance environmental quality or avoid or minimize adverse environmental impacts, and will correct inaccuracies or omissions.
- b. Any agency project that is environmentally or functionally related to the proposed action in the EIS should be identified so that inter-relationships can be discussed in the EIS. In such cases, the agency should consider serving as a joint lead agency or cooperating agency.
- c. Environmental monitoring for which the agency has special expertise may be suggested and encouraged during construction, startup, or operation phases.
- d. Other agencies will generally be requested to forward their DEISs directly to the appropriate FAA regional offices. The following types of matters, however, will be referred to appropriate office or service in the Washington headquarters for comment: actions with national policy implications; proposed actions that involve natural, ecological, cultural, scenic, historic, or park or recreation resources of national significance; legislation; or regulations having national impacts, or national program proposals. DEISs in these categories are to be referred to P-1 for preparation of Department of Transportation (DOT) comments and, where appropriate, to the appropriate office or service in the Washington headquarters. In referring these matters to headquarters, the regional office is encouraged to prepare a proposed DOT response.
- e. Regional offices review DEISs that do not have national implications. Comments will be forwarded directly to the office that the originating agency designates for receipt of comments. If the FAA receiving office believes that another DOT office also has an interest or is in a better position to respond, the FAA office should transmit the DEIS to the appropriate DOT office in a timely fashion. If the FAA and other DOT administrations comment at the regional level, the Regional Administrator or designee may coordinate the comments.
- f. When appropriate, the FAA will coordinate a response with DOT offices having special expertise in the subject matter.
- g. Comments will be submitted within the time limits set forth in the request, unless the office responsible for submitting comments seeks and receives an extension of time. Comments must be concise and specify any changes desired either in the action proposed and/or in the environmental statement.
- h. FAA may adopt, in whole or in part, EISs prepared by other agencies. When the FAA adopts an EIS in whole or in part, the responsible FAA official must independently make a written evaluation of the information contained in the EIS, take full responsibility for scope and content that addresses FAA actions, and issue its own ROD. The responsible FAA official may also summarize the adopted portions followed by a direct reference to the EIS. If more than three years have elapsed since the EIS was issued, the responsible FAA official should prepare a written re-evaluation of the EIS (see paragraph 516). Pursuant to 40 CFR 1503.3, if the responsible FAA official does not accept an EIS prepared by another agency, the responsible FAA official shall specify in its comments to that agency whether it (FAA) needs any additional information or describe the mitigation measures the FAA considers necessary to grant or approve an applicable permit, license, or related requirements or concurrences. If the responsible FAA official comments on the action agency's predictive methodology, the responsible FAA official should describe the preferred alternative methodology and explain why the FAA prefers this methodology.

519. LEGISLATIVE PROPOSALS. Before the FAA submits to the Congress a legislative proposal significantly affecting the environment, the office that originates the legislation will prepare, circulate, and file an EIS with EPA. The Office of the Secretary reviews legislative EISs and submits them to the Office of Management and Budget (OMB) for circulation in the normal legislative clearance process.

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520. REGULATIONS. For regulations, the DEIS or FONSI shall be prepared and made available in dockets (AGC-200) for public review at least 30 days prior to publishing the final rule. The Notice of Availability of the DEIS must be published at least 90 days or the Notice of Availability of the FEIS must be published at least 30 days, whichever is later, prior to publishing a final rule. When the DEIS is issued for public comment, copies will be made available for public review in dockets.

521. ENVIRONMENTAL EFFECTS OF MAJOR FAA ACTIONS ABROAD.

a. In compliance with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, (see paragraph 210b(3) of this order, and paragraph 16 of Order DOT 5610.1C, FAA actions significantly affecting the global commons (e.g., the oceans and Antarctica) outside the jurisdiction of any nation, FAA actions outside the U.S., its territories and possessions significantly affecting natural resources of global importance designated for protection by international agreement, FAA actions occurring within the U.S. or its territories that significant impact the environment of another country, or requests for FAA action by a foreign government, manufacturer, operator, may meet the criteria for preparing an EA, FONSI, EIS, or environmental studies. The responsible FAA official must coordinate communications concerning environmental studies or documentation with the State Department through the Environmental Policies Team (P-130) of the Assistant Secretary for Transportation Policy.

b. With respect to requests for FAA action, after the State Department's notification, all FAA requests to a foreign applicant for information, which the FAA needs to prepare an environmental study or an EIS, should then be forwarded through the civil aviation authority of the applicant's government. Copies of the EIS and notices of any public hearings planned on the proposed action should be furnished to the:

(1) Applicant;

(2) Appropriate foreign civil aviation authority; and the

(3) Washington, D.C., embassy for the country where the applicant is located or the country that the proposed action would affect.

b. Other environmental laws, regulations, and executive orders have specific requirements regarding consideration of potential effects of Federal actions overseas (see appendix 1). Important examples include, but are not limited to, the following:

1. Under Executive Order 12088, Federal Compliance with Pollution Control Standards, the FAA must ensure that construction or operation of FAA facilities outside the United States complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

2. Under section 402 of the National Historic Preservation Act (16 U.S.C. 470a-2), "[p]rior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register [of Historic Places], the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effect."

c. Any substantial differences arising in the course of the EIS between the originating FAA organization and a foreign applicant or the affected foreign country should be referred to AEE (for proposed Airport actions, APP-600), which will consult with the Assistant Administrator for Policy, Planning, and International Aviation (API) to resolve any problems.

522. LIMITATION ON ACTIONS SUBJECT TO NEPA. For actions subject to an EIS the responsible FAA official should not take any action or make any irretrievable and irreversible commitments of

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resources until appropriate environmental review has been completed under this order (see 40 CFR 1502.2(f) and 1502.4(c)(3)).

a. For informal rulemaking requiring an EIS, the DEIS shall normally accompany the proposed rule.

b. CEQ regulations specifically require that (see 40 CFR 1506.1):

(1) For projects requiring an EIS, no action concerning the proposal shall be taken which would have an adverse environmental impact or limit the choice of reasonable alternatives, unless the action is justified independently of the program, is itself accompanied by an adequate EIS, and will not prejudice the ultimate decision on the program.

(2) Further, if the FAA is considering an application from a non-Federal entity, and FAA is aware that the applicant is about to take an action within the agency's jurisdiction that would have an adverse environmental impact or limit the choice of reasonable alternatives, the responsible FAA official shall promptly notify the applicant that the FAA will take appropriate action to insure that the objectives and procedures of NEPA are achieved. However, this does not preclude development by applicants of plans or designs or performance of other work necessary to support the application.

523.-599. RESERVED.